

1 EXPEDITE
2 No Hearing is Set
3 The Honorable Judge Thomas McPhee
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7 **STATE OF WASHINGTON**
8 **THURSTON COUNTY SUPERIOR COURT**

9 MIKE KREIDLER,
10 INSURANCE COMMISSIONER,

11 Petitioner,

12 v.

13 CASCADE NATIONAL INSURANCE
14 COMPANY,

15 Respondent.

NO. 04-2-02427-4

**TWENTY-FIFTH
REPORT OF RECEIVER**

16 Mike Kreidler, Insurance Commissioner of the State of Washington and Statutory
17 Receiver of Cascade National Insurance Company in Liquidation ("Cascade" or "CNIC"),
18 James T. Odiorne, Deputy Insurance Commissioner and Court-appointed Receiver of Cascade,
19 and Marshall McGinnis, court-appointed Deputy Receiver of Cascade (collectively the
20 "Receiver"), by and through their attorneys, Robert M. McKenna, Attorney General, and Marta
21 DeLeon, Assistant Attorney General, hereby submit the Twenty-Fifth Report of Receiver
22 pursuant to RCW 48.31.040(5), and state as follows:

23 1. *Order of Liquidation.* On November 4, 2005, this Court declared Cascade
24 insolvent and entered an Order of Liquidation and Approval of Plan of Liquidation ("Order of
25 Liquidation" or "Order") pursuant to Chapters 48.31 and 48.99 RCW.
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1 2. *Accounting to the Court.* In accordance with the Court's July 22, 2011 Order
2 Granting Motion For Semiannual Reporting By The Receiver, the Receiver shall file a report
3 with the Court twice per year, on or about May 15th and November 15th.

4 3. *Financial Report.* Attached hereto as Exhibits A, B, and C are Cascade's
5 October 31, 2012 Balance Sheet, and Statement of Receipts and Disbursements, and its
6 Supplemental Claims Information as of September 30, 2012. The financial figures are derived
7 from calculations made in accordance with the Receiver's Handbook for Insurance Company
8 Insolvencies published by the National Association of Insurance Commissioners ("NAIC").

9 The enclosed financial statements have been prepared from available information.
10 Certain assets and liabilities are estimates. Assets with uncertain realizable value have not
11 been included. Additional assets resulting from legal and/or collection efforts may be recorded
12 in the future when realized. The review of incoming claims is an ongoing process. The
13 estate's largest creditors are various Insurance Guaranty Associations. Current known Class 2
14 (Loss Claims) liabilities of \$29,971,002 are calculated based upon the Receiver's best estimate
15 of outstanding loss and loss adjustment expense reserves for automobile claims as of March
16 31, 2012, and estimated Workers Compensation claims based on the most current actuarial
17 study performed using claims data as of December 31, 2011. Since the Guaranty Associations
18 are now handling the automobile claims, the usual and traditional actuarial methodology for
19 estimating loss reserves is not applicable. Periodically, the Receiver reviews automobile loss
20 experience and adjusts Class 2 automobile claims liabilities to reflect the Receiver's best
21 estimate of those liabilities going forward. A current review was completed to adjust such
22 liabilities as of March 31, 2012. Note that this adjustment includes a corresponding reduction
23 in applicable reinsurance recoverable, a Balance Sheet asset. In this review process, the
24 Receiver also re-categorized estimated Insurance Guaranty Association unallocated loss
25 adjustment expenses as Class 1 Liabilities.
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1 As of October 31, 2012, known assets totaled \$18,604,569 with 62% in cash and short-
2 term investments. The estate's cash and short-term investment decreased significantly as a
3 result of early access distributions to the Insurance Guaranty Associations totaling \$6 million.
4 All of Cascade's Alaska automobile claims have been closed. In accordance with Alaska
5 statutes, Cascade's restricted deposit held by the state was transferred to the Alaska Guaranty
6 Association, increasing the amount advanced to it by \$312,749. The Receiver has requested
7 the finalization of the association's previously submitted proof of claim against the estate and
8 is awaiting their response. Known liabilities totaled \$34,500,821 resulting in a deficiency of
9 assets over liabilities of \$15,896,251. For the period ending October 31, 2012, exclusive of the
10 early access distribution of \$6 million, cash disbursements exceeded cash receipts by
11 \$1,762,942. Cash receipts were primarily from asset recovery efforts, collection of loss
12 recoverable from reinsurers, refund of state premium taxes and recovery of salvage and
13 subrogation on paid loss claims. Operating expenses continue to be well within amounts
14 budgeted by the Receiver. Based on electronic claims data received from the guaranty
15 associations as of September 30, 2012, a total of \$15,912,896 of loss claims and allocated loss
16 adjustment expenses have been paid. See the Supplemental Claims Information, Exhibit C for
17 details.

18 4. *Proof of Claims.* In accordance with paragraph 3.5 of the Plan of Liquidation,
19 the Receiver issued Proof of Claim forms to all policyholders and other potential claimants.
20 All claimants had until March 4, 2006, to file a timely Proof of Claim form. Claims continue
21 to be reviewed. Some have been denied. The Receiver is seeking additional information from
22 some claimants. The Receiver anticipates that there may be some claims that will be rejected
23 in whole or part, which will be disputed by the claimant and will require a hearing for ultimate
24 resolution. The Receiver denied Mainstay Business Solutions' Proof of Claim No. 1284, and
25 on July 22, 2011, the Court entered an Order confirming the Receiver's Final Determination
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1 denying the Claim of Mainstay Business Solutions. The Receiver also denied Statewide
2 General Insurance Agency, Inc.'s Proof of Claim Nos. 3594-3599, and on January 6, 2012, the
3 Court entered an Order confirming the Receiver's Final Determination denying Statewide's
4 Claims. The Receiver denied Columbia State Bank's Proof of Claim No. 1203, and on
5 February 3, 2012, the Court entered an Order confirming the Receiver's Final Determination
6 denying Columbia's Claim. Finally, the Receiver denied Proof of Claim No. 4354 from James
7 S. Feltman, Chapter 11 Trustee for the Estate of Certified HR Services Company et al., and on
8 November 2, 2012, the Court entered an Order confirming the Receiver's Final Determination
9 denying Feltman's Claim.

10 5. *Operations.* The Receiver received approval by the Court to cease all
11 operations of its subsidiary, MBR Corporation DBA Allied Pacific Adjusting Group
12 ("Allied"), effective April 14, 2006. All Allied assets were disposed of or sold, with all funds
13 received from the sale maintained in a separate account. The funds were subsequently
14 disbursed and documents to dissolve the corporation were filed with all appropriate
15 jurisdictions. All activities required to cease all operations of Allied have now been
16 completed.

17 6. *Marshalling Assets.* The Receiver completed a global reconciliation of
18 accounts current for its former general agents, Kenneth I. Tobey, Inc. and the Statewide
19 General Insurance Agency Inc., and has billed them for closing amounts totaling over \$1
20 million. Both general agents dispute the global reconciliations presented by the Receiver.

21 The Office of the Insurance Commissioner (OIC) initiated a license revocation action
22 against K.I. Tobey for failure to pay and mishandling of trust funds, and K.I. Tobey has
23 voluntarily accepted revocation. Settlement negotiations between the OIC and K.I. Tobey
24 failed, and K.I. Tobey filed for bankruptcy in Atlanta, Georgia. A trustee was subsequently
25 appointed by the bankruptcy court. The Receiver is pursuing the claim in the bankruptcy court,
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1 but the likelihood of recovery is unknown. On October 23, 2009, the case was converted from
2 Chapter 11 to Chapter 7.

3 In 2007, the Receiver initiated an adversarial claim for wrongfully withheld premiums
4 against Statewide General Insurance Agency Inc. and Marcel Matar, personal guarantor of
5 amounts owed. Statewide was served, and its attorneys filed notices of appearance. In 2008,
6 an Answer was filed claiming lack of personal service against Mr. Matar. The Receiver's
7 counsel requested information regarding the financial status of Mr. Matar and his business in
8 order to determine whether resources exist to repay Cascade. The information provided was
9 limited and insufficient to determine the financial status of Mr. Matar. Mr. Matar was
10 personally served in Pasadena, California on January 28, 2010. The original attorneys have
11 since withdrawn, and another counsel for Statewide and Mr. Matar filed a Notice of
12 Appearance in May 2010. On November 9, 2012, the Receiver filed a Motion for Summary
13 Judgment. Hearing date is set for March 1, 2013.

14 The Receiver is also pursuing amounts owed by Mainstay, one of Cascade's workers'
15 compensation accounts in California, which include payment for premium, paid claims, and
16 reserves. Cascade has requested payment and information required under the policy with
17 Mainstay for Cascade to conduct a premium audit. Mainstay has not provided payment, but an
18 agreement regarding the audit premiums due was reached. Cascade made a formal demand for
19 payment from Mainstay on November 19, 2009. On April 30, 2012, the Receiver filed a
20 Complaint in United States District Court, Eastern District of California, against Mainstay for
21 breach of contract and other remedies. On June 29, 2012, the Court issued a Default Judgment
22 in favor of the Receiver. On September 27, 2012, Mainstay filed a Motion to Vacate Default
23 Judgment. Hearing date is set for December 03, 2012.

24 The Receiver, through counsel, continues to pursue various legal avenues that could
25 result in recovery of assets to the receivership estate. The Receiver filed a Complaint for
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1 Damages in King County Superior Court against several defendants, including Danny Pixler,
2 Anthony Huff, American Staff Resources of California, Inc., Certified Services, Inc., and
3 Midwest Merger Management, LLC. The case was removed to U.S. District Court for the
4 Western District of Washington, No. C06-697 RSL. On May 21, 2010 the jury returned a
5 \$19,310,744 verdict in favor of the Receiver on claims of civil conspiracy, criminal
6 profiteering, unfair trade practices/consumer protection, misrepresentation and fraud. On
7 January 3, 2011, the Court awarded \$2,031,925.75 in attorney's fees and \$494,496.61 in
8 litigation expenses under the Consumer Protection Act and Criminal Profiteering Act.
9 Defendants Anthony Huff, Sheri Huff, and Midwest Merger Management, LLC filed an appeal
10 to the U.S. Court of Appeals for the Ninth Circuit. Oral argument was heard on April 9, 2012.
11 On May 2, 2012, the Court issued an unpublished opinion affirming the District Court's
12 judgment, following a jury trial, in favor of the Receiver.

13 By way of additional background, the SEC initiated criminal proceedings against
14 defendant Danny Pixler in Florida. Defendant Pixler has entered into a plea agreement in those
15 proceedings, pleading guilty to conspiracy to commit wire fraud, and was sentenced to five
16 years of incarceration. The SEC initiated civil proceedings against Anthony Huff and a bench
17 trial was held beginning February 16, 2010. On September 30, 2010, the judge entered an
18 order in favor of the SEC, finding Huff violated federal securities laws and ordering him to
19 disgorge over \$10 million in ill-gotten gains. On January 3, 2012, the U.S. Court of Appeals
20 for the Eleventh Circuit affirmed that order. On October 1, 2012, the United States Attorney's
21 Office for the Southern District of New York announced the filing of a 13-Count Indictment
22 charging Huff with fraudulent schemes including but not limited to Wire Fraud, Tax Evasion,
23 and several different counts of Conspiracy.

24 After filing suit against the Defendants, the Receiver learned that Certified HR
25 Services, a subsidiary of Defendant Certified Services, Inc. ("Certified Services"), had entered
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1 into bankruptcy proceeding in the U.S. District Court, Southern District of Florida, Case No.
2 05-22912-BKC-RBR. The Receiver ultimately entered into an agreement with the bankruptcy
3 trustee and obtained a Court order establishing that none of Cascade's claims against the
4 Defendants in the Washington litigation were affected by the Florida bankruptcy action, and
5 preserving the possibility of recovery against the consolidated Certified HR Services/Certified
6 Services bankruptcy estate. The Receiver subsequently filed a \$2 million claim against the
7 bankruptcy estate. A \$100,000 interim distribution was received in April 2011, but it is
8 uncertain when or whether there will be further payment on this claim.

9 The Receiver filed a civil action in King County Superior Court, No. 06-2-34413-8-
10 SEA, to recover damages for officer/director actions that harmed Cascade. A favorable
11 settlement has been reached and the action has been dismissed.

12 RESPECTFULLY SUBMITTED this 13 day of November, 2012

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14 
15 MARSHALL MCGINNIS
16 Deputy Receiver

17 Presented by:

18 ROBERT M. MCKENNA
19 Attorney General

20 
21 MARTA U. DeLEON
22 WSBA #35779
23 Assistant Attorney General
24 *Attorneys for the Insurance Commissioner*

EXHIBIT A

Cascade National Insurance Company in Liquidation
Balance Sheet
As of October 31, 2012

		10/31/2012	
ASSETS			
Operating cash		33,776	
ST investments		11,470,024	
Cash & ST Investments	(1)		11,503,800
Advances to Guaranty Associations		6,312,749	
Reinsurance recoverable (net)	(2)	776,473	
Deposits/advances		11,547	
Total Other Assets			7,100,769
TOTAL ASSETS	(3)	18,604,569	
LIABILITIES			
Secured Claims		-	
Class 1	(4)	4,319,617	
Class 2	(5)	29,971,002	
Class 3		-	
Class 4		-	
Class 5		55,284	
Class 6		138,863	
Class 7		16,054	
Class 8		-	
Class 9		-	
TOTAL LIABILITIES			34,500,821
Excess (Deficiency) of Assets Over Liabilities			(15,896,251)
TOTAL		18,604,569	

Note: The information contained in this report is prepared by the receiver from information available to, known or estimated by the receiver as of the date of the report. The receiver makes no warranty as to the accuracy of the information or of the opinions or evaluations contained in this report and expressly disclaims any liability arising from the statements of fact, evaluation or opinion contained in the report.

- (1) Cash & ST Investments include \$133,841 of restricted state deposits.
- (2) Reinsurance recoverable includes \$776 thousands of ceded losses, loss adjustment expenses and related reserves estimated for Company's automobile business.
- (3) Assets reported in this statement do not include all possible recoveries that may result from various legal and/or collection efforts.
- (4) The Class 1 Liability represents the remainder of the 2011/2012 and 2012/2013 operating expense budget for the receivership and estimated unallocated loss adjustment expenses of the Insurance Guaranty Associations.
- (5) Automobile loss reserves are the Receiver's best estimates of outstanding losses and loss adjustment expenses as of March 31, 2012. These estimates will continue to be updated from time to time. For workers' compensation policies, the receivership, with the help of an independent consulting actuary, updated its Class 2 workers' compensation liabilities using paid losses and loss reserves data from the California Guaranty Association as of December 31, 2011.

EXHIBIT B

EXHIBIT B

Cascade National Insurance Company in Liquidation
Statement of Receipts and Disbursements
Period Ending October 31, 2012

	12 Months Ending 10/31/2012	Since Date of Liquidation Order
RECEIPTS		
Reinsurance recoveries	-	2,810,532
Agents balances	-	142,718
Salvage & subrogation recoveries	2,251	303,166
Recovery of taxes previously paid	-	283,221
Asset Recovery	-	1,500,000
Other receipts	350	366,022
Receipts Before Investment Activities	2,601	5,405,658
Investment receipts	1,372	1,499,455
Proceeds from sales & maturity	-	915,000
Receipts from Investment Activities	1,372	2,414,455
TOTAL CASH RECEIPTS	3,973	7,820,113
DISBURSEMENTS & DISTRIBUTIONS		
Claims processing expenses	-	506,948
Legal fees	199,595	3,197,401
Consulting fees	101,321	653,843
Salaries	221,473	2,541,507
Employee benefits	8,101	106,320
Payroll & other taxes	10,475	144,232
Rent & related expenses	15,938	254,833
Equipment expenses	9,476	134,695
Office expenses	23,208	170,710
Other disbursements	7,814	78,447
Disbursements	597,400	7,788,936
Early Access Distributions	-	6,000,000
Disbursements Before Investment Activities	597,400	13,788,936
Investment Expenses	3,986	23,773
Purchase of Investments	1,372	1,770,346
Disbursements for Investment Activities	5,358	1,794,119
TOTAL CASH DISBURSEMENTS & DISTRIBUTIONS	602,758	15,583,055
Net Cash Receipts over/(under) Disbursements	(598,785)	(7,762,942)
Cash at beginning of period	38,579	773,413
Net Cash Receipts over/(under) Disbursements	(598,785)	(7,762,942)
Cash transferred from/(to) ST investment	593,982	7,023,306
Cash at end of period	33,776	33,776

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EXHIBIT C

**Cascade National Insurance Company in Liquidation
Supplemental Claims Information
Claims and Adjusting Expenses Paid by Insurance Guaranty Funds
As of September 30, 2012**

	Auto	Workers Compensation	Total
Alaska	754,382	-	754,382
California	879,006	10,376,629	11,255,635
Oregon	1,010,780	-	1,010,780
Washington	2,892,099	-	2,892,099
	<u>5,536,267</u>	<u>10,376,629</u>	<u>15,912,896</u>

Notes:

- The above amounts do not include reserves established by the insurance guaranty associations for outstanding claims nor the estate's residual liabilities on these claims.

Cascade National Insurance Company in Liquidation
Supplemental Claims Information
Claim Counts by Loss Event
As of September 30, 2012

	Auto (1)		Workers Compensation		Total	
	Transferred to IGF	Closed by IGF	Transferred to IGF	Closed by IGF	Transferred to IGF	Closed by IGF
Alaska	6	6	-	-	6	6
California	187	187	366	301	553	488
Oregon	66	66	-	-	66	66
Washington	178	176	-	-	178	176
	<u>437</u>	<u>435</u>	<u>366</u>	<u>301</u>	<u>803</u>	<u>736</u>

Note:

- (1) A substantial number of closed auto claims are claims closed by the insurance guaranty associations without loss payment. These claims may have been settled by the claimants' own insurance carrier. As a result, these insurance carriers may have recovery rights against the estate of Cascade.